

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LYNETTE M. PITTS, <i>on behalf of herself</i> <i>and all others similarly situated</i>)	CASE NO. 1:08-CV-01621
)	
Plaintiffs,)	JUDGE LESLEY WELLS
)	
v.)	MAGISTRATE JUDGE GREG WHITE
)	
GUARANTEE TRUST LIFE INSURANCE COMPANY,)	
)	REPORT AND RECOMMENDATION
Defendant.)	

This matter was referred to the undersigned Magistrate Judge for the preparation of a Report and Recommendation concerning Defendant Guarantee Trust Life Insurance Company's ("Defendant") Motion to Dismiss Count III of the original Complaint. (Doc. Nos. 9 & 17.) On March 24, 2009, Plaintiffs filed a Motion to Amend Complaint *Instantly*. (Doc. No. 21.) The Court granted Plaintiffs' Motion to Amend on March 27, 2009. The Amended Complaint eliminated the cause of action contained in Count III of the original Complaint, which alleged a violation of Ohio Revised Code § 3918.08.¹ (Doc. No. 22.) Therefore, it is recommended that

¹ The Amended Complaint contains a new cause of action in Count Three alleging a violation of the duty of good faith and fair dealing. (Doc. No. 22.)

Defendant's Motion to Dismiss Count III of the original Complaint (Doc. No. 9) be DENIED as moot.

s/ Greg White
U.S. MAGISTRATE JUDGE

Date: March 31, 2009